DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES WASHINGTON, D.C. E0548

FEB 9 1977

FILE: 3-186527

MATTER OF: Alfred W. Eipper: Fre Rate Neimbursment of Real Estate Expe. es for Sale of Nouse

DATE:

DIGEST:

Claim of employee for real estate empenses for cost of selling land across reed from residence, which he had purchased in order to obtain residence, is denied. Said land does not rescenably relate to residence site as is required by para. 2-6.1f, FFRR 101-7 (May 1973) and 54 Comp. Gen. 597 (1975).

By a letter dated May 3, 1976, Mrs. Jeannatte B. Wilbanks, an authorised certifying officer, fish and Wildlife Service, Department of the Interior, requested an advance decision regarding the propriety of certifying for payment the reclaim wousher of Mr. Alfred W. Ripper for expenses of selling a parcel of land adjacent to the property upon which his residence was located. The expenses were incurred incident to the employee's permanent change of daty station from Itheca, New York, to Boston, Massachusetts.

Mr. Ripper states that the preperty consisted of "a house and the appurtment land remaining from an original square-mile homestead bisocted by a road." He further states that he was required to purchase the entire tract in order to obtain the house. He has used the property on the opposite side of the road solely for firewood and recreational purposes during the 23-year period he owned the land. Mr. Ripper indicates that he attempted to sell the entire tract to a single purchaser. However, due to market conditions, he was forced to sell the Louge and 8 acres located on one side of the road to one purchaser and the remaining acreage (8.40 acres) across the road to a second purchaser.

Mr. Ripper has already been reimbursed for the expenses incurred in selling the house and 8 acres. The reclaim is for survey cost, miscellaneous costs, and real astate domnission in connection with selling the acreage across the road from his residence.

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Paragraph 2-6.16 of the Federal Travel Regulations (FMR 101.7, May 1973) provides in pertinent part as follows:

"f. Paramet of curences by conferes - pro Take entitionari, " " " The employee shall also be limited to pro rate reinforcement when he sells or purchases land in excess of that which resembly relates to the residence site,"

In construing the above-quoted regulation, we stated in 54 Comp. Gen. 597, 598 (1975): "The crucial point in this directive is the determination of how much land "reasonably relates to the residence site" and how much land of the purchase or sale is "in emease."" We further stated that a determination should generally be under by the agency concerned, and we set forthcommples of the kinds of considerations which agencies should take into consideration in arriving at such determination.

In examining the record we find no evidence to support a contention that the land across the road from the property on which the residence was located resounably related to the residence site. On the contrary, while included in a single warranty deed, the description at time of purchase by Mr. Hisper in 1952, covers 2 separate parcels of land. The 1975 sale of the house site described it as the second percel described in the 1952 deed. The fact that he was required to purchase both parcels of land in order to obtain the land containing the residence is not determinative. Mr. Hipper's wet of the adjoining land for recreational perposes and firewood during the years he owned both properties did not ereats the relationship required by the regulation. A determination as to whether the land is considered "in excess" involves weighting of factors such as land usebility and divisibility. In other words, as we stated in 54 Comp. Gen. 597 games, a particular tract of land might require several acres for proper solls maste disposal or its topography might be such that only a small portion was autable for building purpoves. We pointed out that in making a determination as to "owners land" consideration should be given to such factors as soming laws and potentiall future use. Under these exitoria and others mentioned in 34 Cosp. Son. 397, seems, we are unable to conclude from the evidence of record that the adjoining land reasonably related to the residence site.

3-106327

Accordingly, the reciain of Mr. Alfred M. Ripper may not be exertified for payment.

R.F. KELLER

Deputy of the United States